

REMARKS

This paper and the accompanying Request for Continued Examination are submitted in response to the Advisory Action dated January 19, 2006 ("Advisory Action") and in response to the Final Office Action dated August 11, 2005 ("Office Action").

Claims 1-113 were previously pending in the application.

Claims 1-7, 14, 16, 17, 29-35, 42, 44, 45, 57-63, 70, 72, 73, 85-91, 98, 100, and 101 stood rejected.

Claims 8-13, 15, 18-28, 36-41, 43, 46-56, 64-69, 71, 74-84, 92-97, 99, and 102-112 were under objection.

Claim 113 has been allowed.

Claims 1, 4, 29, 32, 35, 36, 42, 44, 52, 57, 59, 60, 64, 85, 88, 91, 92, and 113 have been amended to correct matters of form and to more clearly set forth the claimed invention. The amendments add no new matter.

No claims have been canceled in this paper.

New claims 114-117 have been added in this paper.

Accordingly, claims 1-117 are currently pending.

Claims 1-3, 29-31, 57-59, and 85-87 stood rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,430,150 issued to Azuma et al. ("*Azuma*"). Claims 4-7, 14, 16, 17, 32-35, 42, 44, 45, 60-63, 70, 72, 73, 88-91, 98, 100, and 101 stood rejected under 35 U.S.C. § 103(a) as being unpatentable over *Azuma* in view of U.S. Patent No. 6,728,205 issued to Finn et al. ("*Finn*").

Applicant offers that the pending claims are allowable in view of the remarks presented herein. While not conceding that the cited references qualify as prior art, but instead to expedite prosecution, Applicant has chosen to traverse the claim rejections. The following arguments are

made without prejudice to Applicant's right to establish, for example in a continuing application, that the cited references do not qualify as prior art with respect to a currently or subsequently claimed aspect of the invention. Applicant offers that the claims are allowable at least for the reasons presented below.

Allowable Subject Matter

Continued appreciation is expressed for the indication (in the Office Action dated April 5, 2005) that claims 8-13, 15, 19-28, 36-41, 43, 46-56, 64-69, 71, 74-84, 92-97, 99, and 102-112 would be allowable if rewritten in independent form including all of the limitations of the respective base claims and any intervening claims. From the Advisory Action, Applicant understands that claim 18 would also be allowable if similarly rewritten. Further, Applicant gratefully acknowledges the Examiner's indication that claim 113 is allowable. However, Applicant wishes to maintain claims 8-13, 15, 18-28, 36-41, 43, 46-56, 64-69, 71, 74-84, 92-97, 99, and 102-112 in dependent form in view of the following remarks on the allowability of the corresponding base claims, which have been amended herein.

Claim Rejections

Claims 1-3, 29-31, 57-59, and 85-87 stood rejected under 35 U.S.C. § 102(e) as being unpatentable over *Azuma*. Claims 4-7, 14, 16, 17, 32-35, 42, 44, 45, 60-63, 70, 72, 73, 88-91, 98, 100, and 101 stood rejected under § 103(a) as being unpatentable over *Azuma* in view of *Finn*. Applicant respectfully traverses.

As stated in Applicant's November 11, 2005 response, the cited portions of *Azuma* fail to disclose each of the limitations of the pending claims. Further, although Applicant traverses the final rejection, Applicant has amended the independent claims to clarify, for example, that an alternate physical path is identified using a result of identifying a plurality of nodes with resources. Because the amendments have been made to clarify the claims and not to alter the scope thereof, Applicant believes that maintaining traversal of the rejection of the claims is proper in this case.

For example, with respect to independent claim 1, the cited portions of *Azuma* do not teach or suggest the technique of identifying nodes with resources that are necessary to support a virtual path. (See Applicant's response of November 11, 2005, pp. 33-34.) The factors disclosed by *Azuma* for finding alternate paths include (a) physical topology information (in the cited portion of *Azuma*, at col. 8, lines 14-18), (b) logical topology information (*Id.*), and a selection algorithm such as Dijkstra's algorithm (*Id.* at col. 8, lines 18-20).

However, none of these factors in *Azuma* considers the resources available to a node being considered for use in constructing an alternate physical path in order to restore a virtual path. The *Azuma* factors relate only to the topology of a network, and do not describe an evaluation of the nodes being considered for use in a virtual path's restoration. The *Azuma* factors do not involve a determination whether a particular node would be appropriate for use in restoring a virtual path by virtue of having sufficient resources to support an alternate path to be used by the virtual path. In particular, they do not teach identifying nodes with resources that are necessary to support a virtual path.

Additionally, *Azuma* does not disclose identifying an alternate physical path using a result of the identifying the plurality of nodes with resources. *Azuma* describes a system with a failure type determining part 12 and an alternate path computing part 14. *Azuma* at col. 8, lines 14-18. "In response to the determination by the failure type determining part 12, the alternate path computing part 14 computes topology information to find alternate paths by referring to the physical topology information and the logical topology information." *Id.* The *Azuma* network is cross-connected based on this computation. *Id.* at col. 8, lines 19-23. "After the node executes the cross-connection process, the cross-connection confirming parts 18 in the nodes work in cooperation so as to confirm whether or not the alternate paths set can operate properly." *Id.* at col. 8, lines 23-26 (emphasis added).

Thus, the *Azuma* system reconnects an alternate path *before* confirming whether the alternate path can operate properly. This disclosure of the cited art stands in marked contrast with the limitations of the pending claims.

To emphasize the relationship between determining the alternate physical path and identifying nodes with resources, Applicant has amended independent claim 1 herein to include a

limitation of "identifying an alternate physical path using a result of said identifying said plurality of nodes with resources." *Azuma* do not disclose this limitation.

Further, Applicant expressly maintains the arguments from the response dated November 11, 2005 that no appropriate suggestion or motivation has been presented for combining *Finn* with *Azuma* (pp. 36-37), and further, that even if such a combination were proper, neither *Finn* nor *Azuma*, taken separately or in combination, discloses all the limitations of Applicant's claims (pp. 37-39).

Therefore, for at least the above noted reasons, Applicant respectfully submits that the rejections under § 102(e) of claims 1-3, 29-31, 57-59, and 85-87, and the rejections under § 103(a) of claims 4-7, 14, 16, 17, 32-35, 42, 44, 45, 60-63, 70, 72, 73, 88-91, 98, 100, and 101 should not be repeated in the instant Request for Continued Examination application.

CONCLUSION

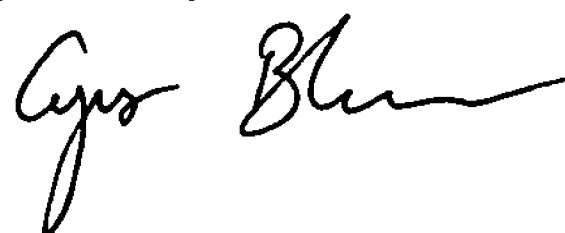
Applicant submits that all claims are now in condition for allowance, and an early notice to that effect is earnestly solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450, on February 10, 2006.


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2006 FEB 10
Date of Signature

Respectfully submitted,



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